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Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic report of States parties due in 2014

Jamaica*

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I. Introduction

1. The Government of Jamaica hereby submits to the Secretary-General of the United Nations, for consideration by the Human Rights Committee, its fourth periodic report, in accordance with Article 40 of the International Covenant on Civil and Political Rights. The report complements the previous reports submitted by the Government of Jamaica, and has been prepared, taking into account the concluding observations of the Human Rights Committee as well as the general guidelines for the submission of periodic reports, provided by the Committee.

2. The report should be considered against the backdrop of several key political developments in Jamaica since the submission of its third report in 2009. Jamaica continues its tradition of multi-party democracy with the successful holding of free and fair elections in 2011. Jamaica observed 70 years of universal adult suffrage in 2014. Jamaica remains committed to the promotion and protection of human rights and the rule of law. The Government adopted a Charter of Rights and Fundamental Freedoms in 2011.

3. However, the country continues to grapple with several socioeconomic challenges which led the Government to conclude a four-year Extended Fund Facility (EFF) with the International Monetary Fund (IMF) in 2013. The Government developed a long-term Economic Reform Programme which is designed to support the EFF arrangement with the IMF. In an effort to ensure that the vulnerable are protected, the first comprehensive social strategy was developed. In the context of continued fiscal constraints, the economy is showing modest signs of recovery. The major issues facing the Government are generating economic growth with employment, progress in the social sector, particularly, education and health, and tackling crime and violence. While there has been a modest decline in crime rates, tackling crime and violence remains a national priority.

II. Implementation of the specific provisions of the Covenant

Article 1

4. Jamaica remains committed to the principle of self-determination and the right of people to freely pursue their economic, social and cultural development.

Article 2

5. The Constitution of Jamaica provides for the enjoyment by all persons of the rights recognised in the Covenant.

6. In 2011, the Jamaican Parliament amended the Constitution to include a new Charter of Fundamental Rights and Freedoms. This Charter replaced the former Chapter III of the Constitution and entitles all persons to the protection of fundamental rights and freedoms without distinction of any kind. Section 13(3) outlines the rights to which all persons are entitled, including the right to life, liberty and freedom from discrimination.

7. Section 13(3)(i) specifically protects:

"the right to freedom from discrimination on the ground of –

(i) being male or female;

(ii) race, place of origin, social class, colour, religion or political opinions;"

8. Under Section 19 of the Charter, constitutional redress is available for violation of rights guaranteed under the Constitution. Section 19 provides that:

> "(1) If any person alleges that any of the provisions of this Chapter has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.
>
> (2) Any person authorised by law, or, with leave of the Court, a public or civic organisation, may initiate an application to the Supreme Court on behalf of persons who are entitled to apply under subsection (1) for a declaration that any legislative or executive act contravenes the provisions of this Chapter.
>
> (3) The Supreme Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.
>
> (4) Where any application is made for redress under this Chapter, the Supreme Court may decline to exercise its powers and may remit the matter to the appropriate court, tribunal or authority if it is satisfied that adequate means of redress for the contravention alleged are available to the person concerned under any other law.
>
> (5) Any person aggrieved by any determination of the Supreme Court under this section may appeal to the Court of Appeal.
>
> (6) Parliament may make provision or authorize the making of provision with respect to the practice and procedure of any court for the purposes of this section and may confer upon any court such powers, or may authorize the conferment thereon of such powers in addition to those conferred by thus section, as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section."

Article 3

9. The Constitution of Jamaica provides for the enjoyment by all peoples of the rights recognised in the Covenant. The 2011 Charter of Fundamental Rights and Freedoms explicitly prohibits gender discrimination. Section 13(3)(i)(i) provides for the right to freedom from discrimination on the ground of being male or female.

10. The Charter of Rights provides for protection of certain economic and social rights as well as establishes civil and political rights for all.

11. In 2011, the Jamaican Parliament also enacted the Sexual Offences Act. This legislation amends aspects of the Offences Against the Person Act to make new provisions for the prosecution of rape and other sexual offences. It also repeals the Incest (Punishment) act by establishing incest offences under the Sexual Offences Act in replacement of those under the Incest (Punishment Act).

12. In addition, the new Sexual Offences Act establishes the offence of marital rape, abolishes the common law presumption that a boy under the age of 14 years is incapable of committing rape and also changes the law relating to sexual history evidence to ensure that discriminatory treatment of evidentiary matters is addressed.

13. Other legislative initiatives include the amendment to the Evidence Act in 2009 to afford greater accommodation and protection to vulnerable witnesses, including women and children who are often victims of violence and sexual abuse.

14. As noted in the third periodic report, the Government of Jamaica continues to promote the equal treatment of men and women as well as provide relief for the victims of crime through the work of public agencies such as the Bureau of Gender Affairs and the Victim Support Unit.

15. Sexual harassment legislation is currently being drafted by the Office of the Parliamentary Counsel. A Joint Select Committee of Parliament has been appointed to review the following: The "Sexual Offences Act", the "Child Care and Protection Act", the "Domestic Violence Act", the "Offences Against the Person Act". The Joint Select Committee will also review the offences and punishments under the mentioned Acts, placing special emphasis on the protection of the vulnerable (women, children, the elderly and persons living with disabilities) from violence and abuse. Gender-inclusive language which has already been introduced recognises that the perpetrator or the victim can be of either sex. The language will be further strengthened to ensure all areas of the law are consistently gender-inclusive and gender-specific (where necessary).

16. The House of Representatives approved the Disabilities Act in October 2014. The Act will serve as the basis for legislation to be enacted to fight against discrimination on the grounds of disabilities and is expected to afford greater legal protection particularly to women and children who in practice tend to fare far worse than other groups.

17. In May 2014, a Private Member's Motion was approved for a Joint Select Committee to convene to consider and make recommendations to address women's underrepresentation in Parliament, local authorities and other positions of leadership. The Committee is expected to identify specific practical measures to correct the systematic gender inequalities which result in women's under-representation in Parliament and local authorities, in the organs of political parties and on public boards; including through the use of "temporary special measures" that would work effectively in the Jamaican political culture and Westminister System, given the objectives of gender equality in political leadership and decision making.

Article 4

18. The circumstances surrounding the State of Emergency declared in May 2010 is currently the subject of a National Commission of Enquiry which was established in May 2014. It began its work on 1st December 2014.

Article 5

19. The Government of Jamaica is committed to ensuring that no restriction is placed on any of the fundamental human rights recognised in the present Covenant.

Article 6

20. The right to life is protected by Section 13(3)(a) in the new Charter of Fundamental Rights and Freedoms which affords protection to "the right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal offence of which the person has been convicted."

21. As noted previously in the third periodic report, the categories of offences that could attract the death penalty has been limited to murders committed in specified circumstances and are defined as capital murder. All murders defined as non-capital attract a lesser offence.

22. Jamaica remains a Member State of the Organisation of American States and has adopted The Inter-American Convention on Human Rights which prohibits the introduction of new offences warranting the death penalty. The application of the death penalty as a sentence has not been extended to any new legislation or offences in Jamaica.

Article 7

23. Section 13(3)(o) of the Charter of Fundamental Rights and Freedoms affords every citizen the right to protection from torture, or inhuman or degrading punishment.

24. The Law Reform (Flogging and Whipping) (Abolition) Act, 2013 was enacted in March 2013. In section 1, the Act abolishes flogging and whipping as a penalty for any offence. In section 2, the Act also provides that every reference to flogging or whipping as a penalty for an offence, appearing in any enactment, is declared to be of no effect.

25. In section 4, the Act expressly repeals the Crime Prevention Act and the Flogging Regulation Act. The Obeah (Amendment) Act 2013, also abolishes whipping as a penalty for any offence under the Act.

Article 8

26. Slavery and servitude are prohibited in Jamaica.

Article 9

27. Section 13(3) (a) of the Charter of Fundamental Rights and Freedoms specifically guarantees "the right to life, liberty and security of the person and the right not to be deprived thereof except in the execution of the sentence of a court in respect of a criminal offence of which the person has been convicted."

28. The right to due process of law is also outlined in Section 16 of the Charter. Subsections (1) to (6) of the provision provides as follows:

> "(1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.
>
> (2) In the determination of a person's civil rights and obligations or of any legal proceedings which may result in a decision adverse to his interests, he shall be entitled to a fair hearing within a reasonable time by an independent and impartial court or authority established by law.
>
> (3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before any court or other authority, including the announcement of the decision of the court or authority, shall be held in public.
>
> (4) Nothing in subsection (3) shall prevent any court or any authority such as is mentioned in that subsection from excluding from the proceedings, persons other than the parties thereto and their legal representatives –

(a) in interlocutory proceedings;

(b) in appeal proceedings under any law relating to income tax; or

(c) to such extent as:

(i) the court or other authority may consider necessary or expedient, in circumstances where publicity would prejudice the interests of justice; or

(ii) the court may decide to do so or, as the case may be, the authority may be empowered or required by law to do so, in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of eighteen years, or the protection of private lives of persons concerned in the proceedings.

(5) Every person charged with a criminal offence shall be presumed innocent until he is proved guilty or has pleaded guilty.

(6) Every person charged with a criminal offence shall:

(a) be informed as soon as is reasonably practicable, in a language which he understands, of the nature if the offence charged;

(b) have adequate time and facilities for the preparation of his defence;

(c) be entitled to defend himself in person or through legal representation of his own choosing or, if he has not sufficient means to pay for legal representation, to be given such assistance as is required in the interest of justice;

(d) be entitled to examine or have examined, at his trial, witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) have the assistance of an interpreter free of cost if he cannot understand or speak the language used in court;

(f) not to be compelled to testify against himself or to make any statement amounting to a confession or admission of guilt; and

(g) except with his on consent, not to be tried in his absence unless

(i) he so conducts himself in the court as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence; or

(ii) he absconds during the trial."

29. The Justice Reform Implementation Unit was established in 2012 under the Justice Undertakings for Social Transformation (JUST) Programme of the Ministry of Justice. This Unit is designated to consolidate, coordinate, monitor and support the timely delivery of all justice sector reform initiatives and drive the implementation of the Justice Reform Agenda over the long term. Several projects and programmes have been developed to ensure speedy and fair trials and improve the delivery of justice by the courts.

30. The Court Management Services was established in August 2009 to strengthen judicial independence and enable the Judiciary and the Courts to have greater input in budgetary decisions and execution of activities surrounding the operations of the Courts. It serves as a means of facilitating a more efficient operation of the Court System, thereby improving the justice system, through the restructuring of the administrative framework and the strengthening of judicial independence.

31. Several legislative initiatives have been proposed and/or passed by Parliament which aims to ensure speedy and fair trials. These proposals are in keeping with the Jamaica Justice Reform recommendations and include the Evidence (Special Measures) Act passed by the Parliament of Jamaica in 2012 which allows for the use of video recorded interviews and live audio-visual link evidence by vulnerable witnesses.

32. The Committal Proceedings Act was passed in 2013. This legislation abolishes preliminary examinations and introduces the process of committal proceedings whereby, to reduce delay and expense, a person's written statement, if it satisfies certain conditions, will be admitted in committal proceedings as evidence to the same extent and effect as if such person had given oral evidence before the Resident Magistrate in the committal proceedings.

33. Other proposed legislations will seek to address the expansion of the jury pool, the elimination of certain jurisdictional silos, introduction of trial delay standards for the disposal of summary cases, the requirement to give notice of intention to rely on alibi and the imposition of discounted sentences where an accused pleads guilty.

34. The Constitution of Jamaica allows any person who alleges a violation of his/her rights under the constitution may apply to the constitutional court for redress. Persons may also seek non-constitutional remedies through the regular courts on the island.

Article 10

35. As noted in the third periodic report, the Prisons Act and the Jamaica Constabulary Force Act address obligations under paragraphs 1 and 2 (a) with respect to the humane treatment of persons deprived of liberty. In accordance with the laws of Jamaica (i.e. the Constitution) and international human rights conventions, any person who has been arrested by the police should be treated with dignity and provided basic rights to protect them from any potential abuse. When a person is being detained, the police is mandated to inform the person arrested of the basis for his arrest, as every citizen is entitled to know on what charge or suspicion of crime he is being detained.

36. The Child Care and Protection Act provides that where a child is being held in connection with the commission of an offence, etc., special arrangements be made to prevent that child being from being held with any adult, not being relative, who is charged with any offence with which the child is jointly charged.

37. The Government of Jamaica is firmly committed to improve existing conditions in lock-ups and correctional facilities in order to satisfy international human rights standards in the operation of same. In this context, the detention system has been the subject of review of a Sub-Committee appointed by Cabinet. Notwithstanding the financial and technical challenges, the Government has recorded a number of achievements including the reduction of the number of juveniles in correctional or remand facilities by 42 per cent; reduction in the number of persons in police custody by 25 per cent since 2013, resulting in a system-wide reduction in overcapacity from 100 per cent to 50 per cent; and reduction in police fatal shooting by 45 per cent since 2013.

Article 11

38. The laws of Jamaica do not allow for a person to be imprisoned merely on the ground of an inability to fulfil a contractual obligation.

Article 12

39. Every citizen of Jamaica is afforded the right to liberty of movement and freedom to choose his residence. Section 13(3)(f) of the charter of Fundamental Rights and Freedoms guarantees the

> "right to freedom of movement, that is to say, the right –
>
> (i) of every citizen of Jamaica to enter Jamaica; and
>
> (ii) of every person lawfully in Jamaica, to move around freely throughout Jamaica, to reside in any part of Jamaica and to leave Jamaica".

Article 13

40. The information provided in the second periodic report on the lawful expulsion of an alien in the territory remains relevant.

Article 14

41. Section 13(3)(g) of the Chapter III of the Constitution – the Charter of Fundamental Rights and Freedoms specifically guarantees equal protection before the law. As noted previously, every person charged with a criminal offence shall be presumed innocent until he is proved guilty or has pleaded guilty pursuant to Section 16(5) of the Charter. Other minimum guarantees in relation to the rights of accused persons as recognised under the Charter are provided for by Section 16(6) of the Charter.

42. The Justice Reform Implementation Unit (established in 2012 under the Justice Undertakings for Social Transformation Programme of the Ministry of Justice) is designated to consolidate, coordinate, monitor and support the timely delivery of all justice sector reform initiatives and drive the implementation of the Justice Reform Agenda over the long term. Several projects and programmes have been developed to ensure speedy and fair trials and improve the delivery of justice by the courts. Criminal Case Management is one such project which has been implemented in 4 courts as a pilot, with a view to encouraging fair and speedy case resolution. The services of additional judges have been retained. These judges will be deployed on a rotation basis to a newly established regional Supreme Court. In addition, legislation allowing additional judicial appointments has been made. These measures aim to reduce case back log in the courts and increase the rate at which cases are disposed of.

43. The Committal Proceedings Act, passed in 2013, seeks to abolish preliminary examinations and to introduce the process of committal proceedings whereby, to reduce delay and expense, a person's written statement, if it satisfies certain conditions, will be admitted in committal proceedings as evidence to the same extent and effect as if such person had given oral evidence before the Resident Magistrate in the committal proceedings. Other proposed legislation treat with the expansion of the jury pool, the elimination of certain jurisdictional silos, introduction of trial delay standards for the disposal of summary cases and the imposition of discounted sentences where an accused pleads guilty. The Evidence (Special Measures) Act 2012 allows an accused to participate in the proceedings by way of a live audio-visual link to the court room in certain circumstances. Through the endeavours of the Legal Aid Council, the attorneys empanelled to provide legal aid to accused persons has increased from 418 to 465 in 2013.

Article 15

44. The information provided in the second periodic report concerning, *inter alia*, the provisions in section 20(7) of the Jamaican Constitution, remains pertinent in responding to the provisions of this article concerning the commission of a criminal offence.

Article 16

45. In Jamaica, everyone has the right to recognition as a person before law. Section 13(a) of the Charter of Fundamental Rights and Freedoms sets the tone for the interpretation of Chapter. It provides that all persons are entitled to preserve for themselves and future generations, the fundamental rights and freedoms to which they are entitled by virtue of their inherent dignity as persons and as citizens of a free and democratic society.

46. More specifically, Section 13(3)(g) of the Charter affords all persons the right to equality before the law.

Article 17

47. Section 13(3)(j) of the Charter of Fundamental Rights and Freedoms explicitly protects

> "the right of everyone to –
>
> (i) protection from search of the person and property;
>
> (ii) respect for and protection of private and family life, and privacy of the home;
>
> (iii) protection of privacy of other property and of communication;".

48. The information provided in the third periodic report concerning the law relating to the interception of communication remains relevant.

Article 18

49. The right to freedom of religion is specifically guaranteed by Section 13(3)(s) of the Charter of Fundamental Rights and Freedoms.

Article 19

50. The right to freedom of thought, conscience, belief and observance of political doctrines is guaranteed by Section 13(3)(b) of the Charter of Fundamental Rights and Freedoms.

51. The new Charter also protects the right to freedom of expression under Section 13(3)(c). The right to seek, receive, distribute or disseminate information, opinions and ideas through any media is established in Section 13(3)(d) of the same Charter.

Article 20

52. The information given in the second periodic report with respect to the laws governing the prohibition of war propaganda as well as any advocacy of national, racial or religious hatred remains relevant.

Article 21

53. The right to peacefully assembly is provided for in Section 13(3)(3) of the Charter of Fundamental Rights and Freedoms.

Article 22

54. The information provided in previous reports in relation to the right to join unions afforded in the Labour Relations and Industrial Disputes Act remains relevant.

Article 23

55. The information provided in the third periodic report remains relevant.

Article 24

56. The right of every child to such measures of protection as required by virtue of the status of being a minor or as part of the family, society and the State, is protected by Section 13(3)(k) of the Charter of Fundamental Rights and Freedoms.

57. The Child Care and Protection Act (CCPA) provides protection for every Jamaican child regardless of colour, status, religion or class. The first of the four objectives of the Child Care and Protection Act (2004) focuses on promoting the best interests, safety and well-being of children. It states clearly that the "evolving capacity" of the child is a factor, which should be taken into consideration in determining the child's best interests. The Act also outlines clearly what is meant by the best interests of the child in Section 2(2)(3). Additionally in interpreting the Act, the paramount consideration is the "best interests of the child" which is guided by the following principles outlined in Section 2(3) of the Act as follows:

> "(a) Children are entitled to be protected from abuse, neglect and harm or threat of harm;
>
> (b) A family is the preferred environment for the upbringing of children and the responsibility for the protection of children rests primarily with the parents;
>
> (c) If with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
>
> (d) Where the child is of sufficient age and maturity so as to be capable of forming his or her own views, those views should be taken into account when decisions relating to the child are being made;
>
> (e) Kinship ties and the child's attachment to the extended family should be preserved if possible; and
>
> (f) Decisions relating to children should be made and implemented in a timely manner."

58. The CCPA is a comprehensive legislation covering a wide range of items, guided by the "best interests" principle. It highlights the following elements:

(a) The safety of the child;

(b) The child's physical and emotional needs and level of development;

(c) The importance of continuity in the child's care;

(d) The quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;

(e) The child's religious and spiritual views;

(f) The child's level of education and educational requirements;

(g) The evolving capacity of the child;

(h) The effect on the child of a delay in making a decision.

59. The agencies which have primary focus on children such as the Child Development Agency (CDA) and the Office of the Children's Advocate (OCA) have adopted the "best interests" principle as their under-girding theme.

60. As noted in the third periodic report, the Registrar General Department (RGD) continues its efforts to implement compulsory child registration.

Article 25

61. The right of every citizen to take part in the public affairs directly or through freely chosen representatives is recognised in Jamaica.

62. Section 13(3)(m) (ii) protects the right of every citizen who is so registered, to vote as an expression of his/her free will.

Article 26

63. As noted previously, Section 13(3)(g) of the Charter of Fundamental Rights and Freedoms explicitly provides for the right to equality before the law.

Article 27

64. Section 17 of the Charter of Fundamental Rights and Freedoms outlines the protections guaranteed in relation to the right to freedom of religion.

III. Response to the recommendations in the Committee's concluding observations (CCPR/C/JAM/CO/3)

Recommendation No. 5

65. The Government of Jamaica is currently actively pursuing the establishment of a National Human Rights Institution (NHRI) for the protection and promotion of human rights. The Commonwealth Secretariat was approached to facilitate and provide technical assistance in the development of the NHRI. Initial consultations were held between the Government of Jamaica and the Commonwealth Secretariat in July 2014 and a concept paper is being developed to map the way forward in establishing a NHRI by expanding the role and functions of an existing entity. The Ministry of Justice began collaborating with the UNDP in January 2015 in relation to the Ministry's pre-establishment phase of a National Human Rights Institute (NHRI).

66. Consultations will continue with relevant stakeholders with a view to developing a hybrid model, having regard to current accountability and oversight mechanisms as well as resource levels/challenges. However, Jamaica has an extensive network of institutions

which are mandated to protect the rights of Jamaicans in various spheres such as Office of the Children's Advocate (OCA), the Independent Commission of Investigations (INDECOM), and Office of the Public Defender (OPD).

Recommendation No. 6

67. The Justice Training Institute (JTI), the training arm of the Ministry of Justice, has as its overarching mandate, the responsibility to provide relevant and high quality training and staff development for legal and administrative personnel employed in the Courts, the Office of the Director of Public Prosecutions, the Office of the Attorney-General and Justices of the Peace. The JTI is currently making efforts to source a human rights specialist to deliver training sessions on human rights and pertinent conventions including the ICCPR, to judges, lawyers and prosecutors. The General Legal Counsel, who has responsibility for Continuing Legal Professional Development Training for all attorneys, has been requested by the Ministry of Justice, to include human rights training, including the ICCPR, in its training schedule.

Recommendation No. 7

68. Jamaica withdrew from the Optional Protocol to the Covenant on October 23, 1997. (The withdrawal became effective in January 1998[1].) Jamaica withdrew as a result of the 5-year timeline stipulated by the Judicial Committee of the Privy Council (JCPC) in Pratt and Morgan[2] The Government decided to withdraw because the 5-year timeline was not sufficient to allow persons to exhaust all their domestic appeals and their petitions to international human rights bodies. In reality, petitions to human rights bodies take a much longer time to be processed than envisioned by the JCPC.

69. Notwithstanding Jamaica's withdrawal, alternatives for redress exist. Individuals in Jamaica can submit petitions to other international bodies such as the Inter-American Commission on Human Rights (IACHR). The rights considered in a petition to the IACHR under the American Convention on Human Rights are analogous to the rights that would have been considered by the Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR) (e.g. right to life, equal rights of men and women to enjoy civil and political rights, right to liberty and security of the person, freedom from torture, and freedom of thought, expression and association). Individual petitioners are, therefore, not completely denied a right to petition an international human rights body.

70. The rights listed in the Covenant are also assured to Jamaicans under the Constitution. Violations of those rights can be vindicated in Jamaican courts by way of Constitutional redress under Section 19 of the Charter. In the circumstances, the Government of Jamaica is unable to re-accede to the Covenant at this time.

Recommendation No. 8

71. The Government of Jamaica has no laws, policies or practices that discriminate on the basis of sexual orientation or any other factor. All persons enjoy equal status under the

[1] Jamaica became a party in March 1976.

[2] Where execution takes place more than five years after sentence "there will be strong grounds for believing that the delay is such as to constitute inhuman or degrading punishment or treatment" in violation of Section 17(1) of the Constitution.

law. The Charter of Rights provides for comprehensive protection of certain economic and social rights as well as established civil and political rights. All the rights elaborated are enjoyed by all persons, without distinction of any kind. Among the provisions reinforced by the Charter is the right to equality before the law, in keeping with our stance that no one is above or below the protection of the law.

72. A Committee of Parliament is currently reviewing the Sexual Offences Act, the Offences Against the Persons Act and the Domestic Violence Act. Efforts are underway to make the legislation gender-neutral. Consultations are currently underway with various interest groups on the Sexual Offences Act.

73. The Jamaica Constabulary Force (JCF) has developed a Diversity Policy which came into effect on 25 August 2011. The Diversity Policy, which aims to eliminate all forms of discrimination and inequitable treatment towards members of the public, guides members of the police force in their professional dealings with persons of minority groups, including lesbians, gays, bisexuals and transgender (LGBTs). The objectives of the policy include:

74. Fostering of public confidence by demonstrating fairness, integrity, tolerance and understanding in dealing with all sections of the community.

75. Demonstration of commitment, value and support to every individual by seeking to eliminate all forms of harassment and unfair bias.

76. Providing the necessary support and referral to victims of crime and violence, regardless of the affiliation (individual or group)of the complainant.

77. Elimination of fear of individuals from diverse groups of reporting crime and violence.

78. Ensure the provision of high quality, professional policing services to ALL members of the public.

79. All recruits to the JCF receive training on the Policy and serving members of the Force are subject to refresher courses. There is also ongoing collaboration with the police and members of the LGBT community as it relates to the training and sensitisation of police officers.

80. It should be noted that decriminalising sexual relations between consenting adults of the same sex is not a requirement for being in line with the Covenant. As illustrated in various fora including the UN General Assembly, the treatment of same sex sexual relations is a matter on which the international community remains divided.

Recommendation No. 9

81. Jamaica has recorded several achievements in relation to the treatment of persons living with HIV/AIDS (PWHA) including the development of the National Workplace Policy on HIV/AIDS, revision of the draft Occupational Safety and Health Bill and signing of the Declaration of Commitment to Eliminate Stigma and Discrimination and Gender inequality affecting Jamaica's HIV/AIDS response. The Jamaica Forum for Lesbians, All-Sexuals and Gays (JFLAG) collaborated with the Ministry of Health in training 60 healthcare workers in understanding and providing services for MSMs. The training consisted of two (2) 3-day residential workshops and a practicum. 550 healthcare workers have been sensitized on stigma and discrimination issues. 158 police personnel have been sensitised on incorporating human rights principles in the discharge of their duties. Training sessions have also been conducted for 34 faith-based leaders in "HIV Basic Facts, Stigma and discrimination and Accepting attitudes toward key populations". The training consisted

of one 3-day workshop and a practicum. 1,393 congregants were sensitised on the impact of HIV-related stigma and discrimination. 111 employers and employees of public and private sector organisations received training in HIV Peer Education. The training consisted of a series of 2-day workshops and a practicum

82. The Jamaican Network for Seropositives (JN+) was a lead partner in the establishment and implementation of a National HIV-related Discrimination Reporting and Redress System (NDHRSS). The NDHRSS is designed to deal systematically with incidents of HIV-related discrimination by collecting, investigating and being a focal point for redress for complaints of discrimination related to the real or perceived HIV status of an individual. The GOJ's health policy priorities include expanding access to health services, improving equity and providing for the most vulnerable.

83. The 2013 HIV and AIDS legal assessment for Jamaica showed significant gains in the national HIV response. Prevention of Mother-to-Child Transmission (PMTCT) of HIV and reductions in maternal and infant mortality are two of the most successful achievements to date. The HIV transmission rate from mother to child has been reduced from 25 per cent to 5 per cent since 2007. Data for 2011 from the Ministry of Health shows that 95 per cent of all pregnant women in 2010 were tested for HIV. The maternal mortality rate stabilised at 94.8 per 100,000 from 2003 to 2010 and fell to 94.4 per 100,000 in 2011 and remained at that rate in 2012 and 2013[3]. Figures in respect of infant mortality are even more encouraging, as there was a decline from 24.5 deaths per 100,000 live births in 2003 to 19.2 deaths per 100,000 live births per year from to 2004 to 2006. The number decreased further to 16.7 per cent in 2007 and has been maintained at that level since then[4].

84. A series of initiatives in the health sector have resulted in improved health service delivery and access for women. These include: additional budgetary support, the provision of in-service training, human resource capacity strengthening, extensive infrastructural improvements, upgrading of the technological system care centres and greater access to medical services. Furthermore, integration of services has improved access for vulnerable women living with HIV/AIDS through targeted prevention strategies. The Bureau of Women's Affairs (BGA) in collaboration with civil society organisations, continued support and facilitation of health and information fairs in communities island-wide, with services such as mammography, pap smears and the distribution of female condoms have also contributed to increasing women's access to health services and information.

85. Efforts are underway to combat HIV/AIDS and reduce the incidence of new infections among the vulnerable groups including women. The most notable achievement in this area has been the integration of components of the National HIV Response with the National Family Planning Board. In March 2013, Cabinet approved the integration of the Prevention, Enabling Environment & Human Rights, and Monitoring & Evaluation components of the HIV/STI Programme into the National Family Planning Board to create the National Authority for Sexual and Reproductive Health. One of the key objectives of the integrated agency is to expand and improve integration of family planning, maternal and child health, sexual and reproductive health and HIV/AIDS into primary health care. Additionally, a draft National Strategic Plan on HIV (2012–2017) which utilise gender mainstreaming to ensure the responsiveness of the differential needs of men and women in HIV prevention, treatment, care and support programmes, has been developed.

[3] Planning Institute of Jamaica (PIOJ) – Economic and Social Survey Jamaica 2008 (p. III), 2012 (p. III) and 2013 (p. III).

[4] Ibid.

Gender dimensions of HIV/AIDS in Jamaica

86. In terms of gender distribution of reported AIDS cases, females account for the majority of cases in the 10–29 years age groups, and among the 15–19 year age group, four times as many young women have been reported with AIDS than young men. However, adult males account for a larger proportion (61 per cent) of the cases reported in the 30 to 79 age group.

Initiative for elimination of mother-to-child transmission of HIV

87. In the context of the National HIV Response, the Prevention of Mother-to-Child Transmission (PMTCT) Programme has provided antiretroviral drugs (ARVs) for the majority (88 per cent) of pregnant women and HIV exposed infants (98 per cent) delivered in the public sector in 2012.

Legislative and policy initiatives

88. The Adolescent Health Unit of the Ministry of Health (MOH), with the support of a multi-sectoral Adolescent Policy Working Group has led the process of reviewing policies that limit adolescent access to Sexual and Reproductive Health Services.

89. The National Workplace Policy on HIV and AIDS was approved by Parliament in 2010 and since then there has been significant progress. In 2012, the Policy was further revised based on ILO Recommendations and recommendations from the Attorney General of Jamaica. It was approved as a White Paper by both Houses of the Parliament in February 2013.

90. A draft Occupational Safety and Health (OSH) Bill was presented to the Ministry of Labour and Social Security (MLSS) to include a definition of HIV-related discrimination, which will be deemed criminal under the Act. Additionally, HIV Regulations have been drafted and are expected to accompany the pending OSH Bill. It will give legislative effect to the National Workplace Policy on HIV and AIDS, which requires private and public sector entities to adopt or adapt and implement policies within the workplace to address issues related to HIV and AIDS. The Regulations will also outline sanctions for breaching the tenets of the Policy.

91. Other legislative changes include the Amendment of the Public Health Act and its Regulations which was approved in 2012 to ensure that HIV and AIDS are designated as communicable diseases for the sole purpose of reporting and surveillance, and that HIV and AIDS are not designated as communicable diseases in other contexts. This amendment is aimed at prohibiting institutional and legislative discrimination and stigma against persons living with or affected by HIV and AIDS.

92. The Caribbean HIV/AIDS Regional Training Network (CHART) is the lead Caribbean institution which conducts training for health care personnel to strengthen national systems and build capacity, in providing access to HIV/AIDS prevention, care, treatment and support services. It plays a vital role in efforts to eliminate stigma and discrimination. The CHART Network was established in 2003 to contribute to the development of a regional community-based cadre of health care workers involved in the prevention, care, treatment and support services of persons living with HIV/AIDS.

93. The activities of the Network are monitored by a Regional Coordination Unit (RCU) which is located at the University of the West Indies (UWI), Mona, Jamaica. The Network has six (6) National Training Centres in Bahamas, Barbados, Jamaica and Trinidad and Tobago. CHART obtains its funding from international entities such as Global AIDS Programme, Global Fund to Fight AIDS and Tuberculosis and Malaria (GFATM), among others.

94. The Enabling Environment and Human Rights Technical Working Group (EEHR TWG), established in January 2014 as an independent advisory body of policy experts, development partners and key thinkers in Sexual Reproductive Health and Human Rights issues, provides guidance in the development of strategies and interventions focused on reducing human rights violations and stigma and discrimination. It seeks to strengthen and coordinate the collaboration between all agencies and civil society organisations advocating for a supportive environment that is founded on a human rights framework. The technical working group seeks to ensure a coordinated national response to reducing stigma and discrimination and promoting human rights for all Jamaicans irrespective of health status, race, class, sexual orientation and disabilities. Its primary focus concerns engaging policy makers, civil society organisations, faith-based organisations, service providers, the vulnerable and marginalised, people living with HIV (PLHIV) and others in the review of relevant legislation and policies, and advocating for legislative change in order to reduce stigma and discrimination and gender-based violence, against all Jamaicans. The EEHR TWG, which has a total membership of 25 persons, met on six (6) occasions in 2014. The EEHR Technical Working Group structure comprises a Chairman and Vice Chairman selected by the EEHR TWG membership and a Secretariat hosted by the EEHR Unit at the National Family Planning Board-Sexual Health Agency (NFPB-SHA). Representation is drawn from Government, civil society organisations, University, faith-based organisations and development partners.

Recommendation No. 10

95. The powers of INDECOM to arrest, charge and prosecute members of the Police Force were clarified by the Constitutional Court in its judgment of July 2013. In the *Police Federation et al.* v. *The Commissioner of the Independent Commission of Investigations and the Attorney General*, the Court clarified the powers of INDECOM as follows:

(a) The Commissioner and the investigative staff of INDECOM have the power to arrest both under common law and by virtue of the Act, having been conferred with the powers of a constable;

(b) The Commissioner and the investigative staff have powers at common law to charge and initiate prosecutions of members of the Police Force;

(c) There is no requirement for a ruling of the DPP before members of the Police Force are arrested and charged by officers of INDECOM; and

(d) The powers possessed by officers of INDECOM to arrest, charge and prosecute members of the Police Force in no way undermine the constitutional authority of the DPP who still retains the authority to take over and/or discontinue any prosecution where such action is deemed appropriate by the DPP.

96. An appeal against the decision was filed by the Police Federation et al. Further action to be taken includes a possible amendment to the Act. A Joint Select Committee of Parliament has been established to review the Independent Commission of Investigation Act with a view to making amendments as necessary.

Recommendation No. 11

97. The mission of the Office of the Director of Public Prosecutions (ODPP) is to provide the people of Jamaica with an independent and effective criminal prosecution capability which is both fair and just. Consistent with the Constitution of Jamaica, the Director of Public Prosecutions (DPP) initiates, takes over and terminates prosecutions in

all Courts of Jamaica. In addition, the Director of Public Prosecutions conducts all appellate work flowing from those prosecutions and is directly tasked with responsibilities under the Proceeds of Crime Act, the Extradition Act and the Mutual Assistance (Criminal Matters) Act where the DPP is the designated Central Authority.

98. Assistance is also widely provided to Ministries, Departments and Agencies (MDAs), statutory bodies and the public in making presentations and offering legal opinions on criminal matters. In carrying out the above stated roles, the Office of the Director Public Prosecutions is staffed with forty-three (43) Crown prosecutors, who prosecute in all courts at various levels in the fourteen (14) parishes of Jamaica.

Breakdown of cases for Easter term 2013

• Total number of cases at commencement	583
• Total number of cases added	29
• Total number of cases disposed of	98

Breakdown of cases for Michaelmas term 2013

• Total number of cases traversed	528
• Total number of new committals	34
• Voluntary Bill of Indictment	1
• Other Offences	2
• Total number of cases to be tried for Michaelmas Term	565

99. Currently, there are more than six hundred (600) matters for prosecution in the Home Circuit Court for the parish of Kingston and St. Andrew, with only four (4) court rooms designated to conduct the hearing of these matters. In addition to these six hundred matters the ODPP is responsible for the prosecution of over nine hundred (900) Gun Court matters at the High Court Division of the Gun Court in the parish of Kingston. There are a further four (4) courtrooms designated for the hearing of these matters. Each day on average, Crown Counsels attend the Home Circuit Court with an average of 8 matters which are set for trial. Each day on average, Crown Counsel attends the Gun Court in Kingston with an average of (8) matters which are set for trial and between fifteen (15) to twenty (20) matters which are set for mention.

100. The forty-three (43) prosecutors of the ODPP are also responsible for prosecuting in all other Circuit Courts and Gun Courts for the remaining thirteen parishes of Jamaica. The number of Circuit Court matters ranges from seventy (70) to over one hundred and ten (110) matters per Circuit. Each Circuit is only designated one courtroom and depending on where the Circuit is being held, a Resident Magistrate may be displaced from her courtroom to facilitate the holding of the Circuit.

101. Additionally, the Crown Counsels are also tasked with responding to bail applications heard in chambers and appearing on behalf of the Central Authority in all mutual legal assistance and extradition matters. On a daily basis, Crown Counsels deal with administrative work and have to interact administratively with their overseas partners. These matters are very work intensive.

102. The ODPP would require at least an additional ten (10) to fifteen (15) lawyers to adequately address the resource challenges of Crown Counsels. In order to have these ten to fifteen lawyers, the ODPP would also require an enhancement of its infrastructure. Unfortunately, the current resources allocated to increase the establishment of the human resources of the Courts and certainly the ODPP do not facilitate this. Any possible increase

in the establishments of the Courts and the ODPP is a matter in terms of budgetary allocations.

103. The ODPP faces a plethora of resource challenges in relation to tackling the magnitude of criminal cases before the various courts. Despite the various resource challenges, the ODPP remains committed to providing a timely administration of justice and works arduously daily to ensure that the ends of justice are achieved.

Recommendation No. 12

104. The National Refugee Policy (approved by Cabinet in July 2009), *inter alia*, explicitly provides that in addition to the rights and full legal protection that every person is entitled to under the Constitution and laws of Jamaica, formal recognition of refugee status entitles the individual to receive the same basic health services and basic primary education which the inhabitants of Jamaica receive from time to time.

105. The Passport, Immigration and Citizenship Agency (PICA) possesses blank travel documents (books) issued by the UNHCR which are then personalised with the bio-information (name, date of birth, photo, etc.) of the Refugee once he/she is granted status or temporary stay. Once granted this identification document, the refugee will be able to use this for identification purposes and also to allow them access to social amenities.

106. An Eligibility Committee considers applications and makes recommendations on the outcome of applications for the grant, withdrawal or revocation of refugee status.

Recommendation No. 13

107. The underlying causes for the under-representation of women in politics and in decision-making are the subject of ongoing discussion. Research findings, publications, parliamentary debates, public debates have placed the spotlight on the use of temporary special measures such as quotas to advance gender parity in this area.

108. A Joint Select Committee has been established to consider and make recommendations to address Women's under-representation in Parliament, local authorities and other positions of leadership. The Committee will consider and make recommendations that would identify practical measures including the use of temporary special measures to correct the systemic gender inequalities which impact on women's under-representation in Parliament & local authorities in the organs of political parties and on public boards.

109. The Government of Jamaica through the Bureau of Women's Affairs continues to support the work of the Jamaica Women's Political Caucus with a presence on the members' and planning committees of their annual memorial lecture. This is done in an attempt to bolster the Caucus' efforts to implement plans and programmes which are in keeping with targets as set out in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Millennium Development Goals (MDGs) and the Beijing Platform for Action. These are designed to empower women to benefit from full and equal participation in politics and decision-making.

110. In keeping with these targets, the State through the Bureau ensures that training workshops for women in politics continue to focus on gender/women's issues, political and financial issues, public speaking, and in particular, how political parties facilitate or hinder women's full and equal participation in the political process. The annual Memorial Lecture (in honour of female political representative, the late Madame Rose Leon) held during International Women's Week, encourages women, particularly, young women to consider

politics as a career path as part of an awareness campaign initiative to highlight the importance of women's full and equal participation in leadership positions at all levels.

111. A non-governmental organisation (NGO) group, 51 per cent Coalition Development and Empowerment through Equity, has trained 50 women for appointment to Boards and Commissions. Approximately 100 women were previously trained by the NGO group, Women Resource Outreach Centre (WROC). The Private Sector Organisation of Jamaica (PSOJ) and the Women Business Owners (WBO) of Jamaica have also been training women to prepare them for greater leadership roles.

112. Jamaica has a female Prime Minister who was first appointed in 2006 and later elected in 2011. While the overall progress has been uneven and slow, there have been some improvements as the number of women Senators in Parliament is 25 per cent and notably, in the last election (2011), females contested thirty-five (35) per cent of the parliamentary seats, the highest in Jamaica's history. Women in local government are currently 37.5 per cent following the 2011 polls.

113. There have also been notable achievements in the sphere of public decision-making with women accounting for 59.6 per cent of workers in the public sector and 48.8 per cent in the private sector. Fifty-six (56) per cent of Permanent Secretaries are female. Of the nineteen (19) Heads of Missions (Ambassadors, High Commissioners and Consuls General), eight (8) are women. The Chief Justice of Jamaica, the Director of Public Prosecutions, the Solicitor General, Children's Advocate, Chief of State Protocol, the Commissioner of Corrections and one of the Assistant Commissioners of the Jamaica Constabulary Force (JCF) are women. Most of the senior positions in the Office of the Director of Public Prosecutions (DPP) are held by women, while all the senior posts in the Attorney General's Chambers are held by women.

114. In 2012, Jamaica's Parliament hosted the 5th Regional Commonwealth Women Parliamentarians (CWP) Conference which provided an opportunity for female parliamentarians from Jamaica and other Commonwealth Parliaments in the region to discuss and propose solutions to hindrances to women's political participation as elected and appointed representatives. CWP conferences are held regularly in different locations throughout the Commonwealth and Jamaican women parliamentarians are usually represented.

Recommendation No. 14

115. In Jamaica, abortion is permissible on medical grounds.

116. Several advisory commissions have been established to review the laws and articulate a policy for safe reproductive healthcare services in Jamaica, with special emphasis on abortions. In 2007, the Abortion Policy Review Advisory Group (established in 2005) submitted its final report to the then Minister of Health, recommending the repeal of the present criminal legislation and stating guidelines under which the termination of pregnancies will be lawful. These include developing, maintaining and staffing specified centres, to be monitored according to ministry standards; specific training for persons authorised to perform abortions; and pre- and post-abortion counselling.

117. The provisions in the Offences Against the Person Act which relate to the life of the unborn are saved. The Charter of Fundamental Rights and Freedom for Jamaica provides that "nothing contained in, or done under, the authority of any law in force immediately before the commencement of the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act 2011, [...] shall be held to be inconsistent with or in contravention of the provisions of this Chapter" – and this includes offences regarding the life of the unborn.

Legislative and policy initiatives

118. The Adolescent Health Unit of the Ministry of Health (MOH), with the support of a multi-sectoral Adolescent Policy Working Group has led the process of reviewing policies that limit adolescent access to Sexual and Reproductive Healthcare Services. Also, a concept paper has been developed with input from four government ministries and other stakeholders, and will form the basis for discussions on proposed legislative changes.

119. It should be recalled that there is no international consensus that permitting legal abortions is a requirement for States to be in conformity with the Covenant or any other internationally agreed human rights obligations.

Recommendation No. 15

120. The State takes the killings or assault of all persons seriously. Where there is a murder or assault, law enforcement authorities conduct their investigations with the highest levels of professionalism and impartiality, whether or not the victim is a human rights defender. If an individual reports a threat, the Jamaica Constabulary Force, through its National Intelligence Bureau, conducts a risk assessment. If it is determined that there is a genuine need for special protection, the appropriate measures are put in place.

121. Prosecutions lie within the purview of the Director of Public Prosecutions who has independent constitutional authority to prosecute. She exercises her discretion on the basis of the available evidence. The State is not in a position to influence the decision of the Director of Public Prosecutions in any matter.

Recommendation No. 16

122. The INDECOM receive on average, approximately 600 complaints each year. Two thousand investigations are currently underway. In view of human resource constraints (with only two Senior Legal Officers and two Legal Officers), Cabinet has been requested to approve the hiring of additional staff, particularly Legal Officers, in order to boost the staff complement. It should be noted however, that the Commission has recorded a downward trend in security force-related fatalities in 2014 as compared to 2013. A 50 per cent decline was recorded in the 3rd quarter of 2014.

Recommendation No. 17.

123. Death penalty matters are primarily within the reserved domain of the domestic State and the issue of the retention of the death penalty has been extensively ventilated in recent times culminating with a conscience vote on the matter which has reinforced the position that the death penalty should be retained. The majority of the Members of Parliament voted in November 2008 to retain the death penalty.

124. International law does not prohibit the death penalty, provided it is applied with the relevant safeguards such as the observance of due process. The Covenant itself in article 6 does not prohibit the death penalty, but requires that it be imposed only for the most serious crimes. Additionally, there is no common position at the international level on the abolition of the death penalty. While the UN General Assembly resolution adopts a resolution calling for the moratorium on the use of the death penalty, this has always been subject to a vote.

Recommendation No. 18

125. The Constitution of Jamaica, *viz* the Charter of Rights adopted in 2011, prohibits gender discrimination. The Bureau of Women's Affairs, in consultation with other stakeholders, drafted an Anti-Sexual Harassment Policy in 2011 which made recommendations for legislation to be enacted and proposed measures to be adopted by employers.

126. The Draft Anti-Sexual Harassment Policy 2011 also outlines established research and data collection methods. Public education audio-visual tools are used to sensitise and raise awareness of the problem of sexual harassment, including its causes and consequences on both women and men. The Bureau of Women's Affairs (BWA) also continues sensitisation and awareness-raising in preparation for legislative enactment. These presentations which include how to develop Anti-Sexual Harassment workplace policies, Understanding Sexual Harassment in the Workplace and Understanding Sexual Harassment in Educational Institutions, are part of the Bureau's gender mainstreaming and school education initiatives with staff of key public sector entities and in High School Leadership Programmes respectively.

127. One of the aims of the Research and Outreach project of the Institute for Gender and Development Studies (IGDS) and Ministry of Labour and Social Security, funded by UN Women (2014), is the sensitisation of household workers, employers, trade unions, labour inspectors, as well as the general public. The Ministry of Labour and Social Security (MLSS) receives assistance through the project for Jamaica's ratification of the International Labour Organisation (ILO) Convention 189 (C189). A user-friendly brochure for low-literacy users was produced and public service announcements have been aired on the radio.

128. In the establishment of the Gender Equality Observatory (2009), Jamaica was among five other countries in Latin America and the Caribbean selected to be included in the project funded by the Spanish Agency for International Development Cooperation (AECID) and the Ibero-American Secretariat (SEGIB), in collaboration with ECLAC. Activities included: the generation of national studies on gender and gender-related indicators in the Caribbean, and training and technical support to be provided for the producers and users of the national statistics, including the national machineries for the advancement of women/promotion of gender equality. This was aimed at enhancing the development of gender indicators and the collection of sex-disaggregated and other data in keeping with Jamaica' s commitments under CEDAW, BPFA and other conventions, agreements and treaties. This was done in agreement with the UN Statistical Commission in 2013.

129. A similar process has begun as part of the national Jamaica Crime Observatory Integrated Crime and Violence Information System (JCO-ICVIS). The JCO-ICVIS database which is accessible via a web-based platform, allows authorised users to generate reports, charts and geo-referenced maps using several variables such as: age of victim, gender, day of the week, time of incident, place of occurrence, police division, name of the community, context of the incident and type of weapon. Such information is not only useful for further analysis but can be used to assist the overall decision/policy making process.

130. On April 22, 2014 Cabinet approved the issuing of drafting instructions for comprehensive legislation to prevent and address sexual harassment in all its forms and manifestations. The legislation, which is currently being drafted by the Office of the Parliamentary Counsel, will be gender-inclusive. However, since there are higher numbers of women in the workplace, when promulgated, the sexual harassment legislation should provide greater protection to women.

Recommendation No. 19

131. A National Strategic Plan of Action to Eliminate Gender-based Violence in Jamaica (NSPA-GBV) is currently being finalised as part of a strengthened effort to address gender-based violence in all its forms. It can be viewed as a comprehensive analysis of the causes and consequences of violence against women. The Plan of Action focuses on five (5) priority areas – prevention, protection, prosecution, punishment and redress, protocols for coordination and data collection. As part of this process, a Core Working Group (CWG), under the guidance of the Office of the Prime Minister (OPM), was established with the primary objective to operate as a stakeholder monitoring body, charged with the responsibility of guiding and providing oversight for the revision and completion of the Plan.

132. The Bureau of Women's Affairs (BWA) signed a Memorandum of Understanding (MOU) with the Ministry of National Security in September 2013 towards the need for the harmonisation of data categories to assist in giving a proper assessment of the prevalence of gender-based violence. The MOU signalled the GoJ's commitment to facilitate data collection and data-sharing protocols among key stakeholders. The objectives of the JCO-ICVIS are to: support and keep up-to-date, reliable and publicly accessible data; establish valid and consistent crime and violence related statistics for each neighbourhood and community; and use the validated data to inform policy and decision-making towards the development of improved citizen security and crime prevention measures. The JCO-ICVIS will also assist the Bureau in the collection of sex-disaggregated data to examine the relationship between victims and offenders as well as facilitate evidence-based policy-making and violence prevention activities.

133. As part of a CARICOM-wide initiative to end gender-based violence through strengthened and responsive state and civil society action, the BWA conducted a baseline assessment of policing and prosecution of sexual offences in Jamaica. The objective of the assessment was to establish the key hindrances to the successful policing and prosecution of sexual offences in order to end gender-based violence and to enhance the enjoyment of fundamental human rights. As a way forward, recommendations were made regarding legislative, policy, policing and prosecutorial changes. The recommendations were aimed at ensuring that offenders would be punished and that the trauma of the prosecution process for the sexual assault victims would be minimised. A gender-specific approach underpinned the evaluation of the problems and the proposed solutions.

134. Various government agencies including the Bureau of Women's Affairs (BWA), as well as NGOs, engage in social outreach programmes including the Schools Education Programme (SEP) in an effort to address gender-based violence (GBV). In this regard, hospitals, health centres, police stations and the court system receive reports of cases of different types of GBV and record incidents. Public sector departments with responsibility for domestic violence, child abuse, sexual offences, etc., have also been making attempts to collect and analyse data.

135. These include the following:

- **The Centre for the investigation of sexual offences and child abuse (CISOCA), Jamaica constabulary force** which has branches in all Parishes, offers at its centres a complete programme for victims, including evaluation of each complaint; interviewing and recording statements; and medical examination, treatment, medication and medical certificates for evidential purposes. The CISOCA also prepares exhibits for forensic analysis; apprehends perpetrators and makes arrangements for arraignment. It also provides assistance with the rehabilitation of victims through the procurement of counselling and therapy (offered by both CISOCA and referrals to Woman Inc. Crisis Centre). In addition to these centres,

police personnel who have been specially trained, are assigned to Police divisions across the island;

- **Counselling and therapy** – Counselling is offered island-wide by Victim Support Unit (VSU), Dispute Resolution Foundation (DRF), Peace Centres and Women's Centre as well as various faith-based institutions. Tertiary Level Institutions such as the University of the West Indies (UWI), and the University of Technology, (UTECH) also offer counselling and referrals for their student bodies and staff. In addition, the Non-governmental Organisation (NGO) Woman Inc. Crisis Centre (Kingston and Montego Bay) provides counselling and shelter facilities and support groups for rape victims, adult survivors of incest, and victims of spousal abuse/domestic violence);

- **Domestic Violence Interventions** – Caribbean Association for Feminist Research and Action (CAFRA)/United Nations Fund for Women (UNIFEM) has provided training for police officers in Domestic Violence Intervention techniques and strategies. These Officers are assigned to each Police Divisional Headquarters, as well as other Police stations where s/he is responsible for dealing with reports of abuse against women and girls;

- **Legal Aid and Advice** – This service for victims and their families is available from the Family Courts island-wide, the Government's Legal Aid Clinic, the Legal Aid Clinic at the Norman Manley Law School, University of the West Indies (UWI) and Women's Resource and Outreach Centre (WROC);

- **Hotlines** – These telephone facilities, often with toll free numbers, include the Women's Crisis Centre, Trafficking in Persons (TIP) Hotline, a Children's Hotline for reporting incidents involving children. Persons have access to these island-wide. The hotline service is intended as a "stop-gap" until a person in crisis can access face-to-face intervention;

Programmes for Children and Youth – The Child Development Agency (CDA) has a referral desk where reports of child abuse can be made anonymously. Cases are then referred to the Office of the Children's Registry (OCR) for investigation;

– The Ananda Alert System is a nationwide system that was designed in May 2009 to ensure the speedy and safe recovery of a child in the unfortunate event that he or she is abducted or kidnapped. The System involves the mobilisation of stakeholders to get the message of a missing child into the public domain the moment the matter is reported to the police. In 2012, a total of 2,912 persons were reported missing during the year which was 3 less than in 2011. Some 70.7 per cent (2,058) were children, of which 79.4 per cent (1,634) were female; while of the 854 adults reported missing, 61.5 per cent (525) were male. Some 2,490 persons (1,855 children) were returned or found, 76 (8 children) confirmed dead, while 346 (195 children) were still unaccounted for at the end of the year;

- **The Bustamante Hospital for Children – CAMP Bustamante (Child Abuse Mitigation Project)** which was set up in 2004 with funds from UNICEF as the "first hospital-based response for violence prevention" provides support and treatment for victims of child abuse and violence. CAMP Bustamante has shown the importance of using Injury Surveillance Systems to identify and monitor children at risk of violence, ensuring targeted and comprehensive risk assessment and family-based interventions. The CAMP Bustamante team was formalising a training module on child abuse to be used by the University of the West Indies and the Ministry of Health. It was hoped that replication of the CAMP Bustamante model would occur in hospitals island-wide. Unfortunately, this successful intervention closed its doors when the funding finished.

136. Jamaica continues to be engaged in the UN Secretary General's UNiTE to End Violence against Women Campaign. This campaign includes a series of Public Service Announcements (PSAs) which are aired on local television and radio stations featuring sixteen (16) local artistes who advocate for an end to violence against women.

137. The Government continues to support the work of women's non-governmental organisations through annual subventions for women in crisis including domestic violence.

Recommendation No. 20

138. The Law Reform (Flogging and Whipping) (Abolition) Act 2013 was enacted in March 2013. The Act abolishes flogging and whipping as a penalty for any offence and provides that every reference to flogging or whipping as a penalty for an offence, appearing in any enactment, is declared to be of no effect. The Act also expressly repeals the Crime Prevention Act and the Flogging Regulation Act. The Obeah (Amendment) Act 2013 also abolishes whipping as a penalty for any offence under the Act.

139. Corporal punishment has been outlawed for early childhood institutions and children's homes and places of safety pursuant to the Child Care and Protection Act. In conformity with the Convention on the Rights of the Child, the Ministry of Education has sought to take all appropriate administrative measures to ensure that the use of corporal punishment is discontinued in Jamaican schools, including:

- Schools Bulletin No. 94/2008: directing chairpersons of all public school boards and principals to discontinue use of corporal punishment;
- Presentation to Parliament: May 2008 signalled intention of the administration to reform the legislation to prohibit the use of corporal punishment in schools;
- Appointment of the Safe School Policy for Jamaican Schools, which includes provisions to abolish corporal punishment and the promotion of positive and progressive forms of discipline and intervention and support for children experiencing social and emotional behavioural problems (submitted by Cabinet approval Oct 2011); and
- Ministerial Direction to board chairmen of public schools to desist from using corporal punishment in schools (2011).

140. The Ministry of Youth and Culture through the Child Development Agency (CDA), under the guidance of a multi-sectoral technical advisory committee, have initiated a general review and revision of the Child Care and Protection Act. This review is complete and among the issues that are to be addressed are; (i) use of corporal punishment in general public, (ii) the mandate of the CDA as it pertains to children in conflict with the law, (iii) uncontrollable children, (iv) role and responsibilities of parents especially in light of some parents taking their children to the courts due to their "uncontrollable' behaviour, (v) misalignment with or need for harmonisation with other child-centred legislation. Approximately, 900 individuals (adults and children) were instrumental in the review process and the formulation of the report which outlines the recommendations for amendments for consideration.

Safe school policy

141. The Ministry has a Safe School Policy which states that all members of the school community have a right to safe, secure and caring learning environments. The Safe School Policy adopts a multi-layered approach to safe schools, comprised of prevention, intervention, intense intervention and crisis management strategies. Preventative measures include the abolition of corporal punishment in all schools; compulsory standards for safety

security (for which policy guidelines where introduced to the school system in 2008); a Code of conduct for all members of the school community whilst at school; core school rules; values-based education curriculum complemented by extra-curricular activities; and the creation of a "safe school zone" comprising the school and its immediate surroundings.

142. Intervention strategies include the introduction of alternative disciplinary measures, which emphasise positive and progressive approaches to discipline; and the provision of psycho-social support for students experiencing social and emotional difficulties. Intense intervention strategies involve among other measures, the referral of students to special "time out facilities" as an alternative to suspension and exclusion. Crisis management strategies aim at providing support where there is a security or safety emergency at the school.

Recommendation No. 21

(a) Definition of torture in compliance with article 7 of the Covenant

143. While the word "torture" is not defined in the Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act 2011, it provides for the right to protection from torture or inhuman or degrading punishment or other treatment. There is, therefore, specific constitutional redress against torture. Neither the Independent Commission of Investigations (INDECOM) Act nor the Offences against the Person Act make reference to "torture" and therefore it is not defined or specifically treated within domestic legislation.

144. Notwithstanding the aforementioned, the INDECOM Act empowers the Commission to investigate allegations of conduct of members of the security forces that, result or is likely to result in the death of or injury to a person; involves an assault (including sexual assault, threats of harm, reprisal or intimidatory acts) or battery; or in the opinion of the Commission is an abuse of the rights of a citizen.

145. An act of torture would involve an assault or battery or conduct that resulted in or may result in death or injury to a person. Further, the citizens of Jamaica have a right to protection from torture and inhuman or degrading treatment pursuant to the Charter aforementioned. Therefore, though not specifically defined in domestic legislation, acts of torture by members of the security forces are investigated by INDECOM and prosecuted accordingly.

(b) Investigation of allegations of torture and of cruel, inhuman or degrading treatment, prosecution and appropriate punishment of perpetrators of such acts and reparation for victims

146. INDECOM prepares reports on all investigations conducted and makes recommendations for follow-up action.

147. The Office of the Public Defender (OPD) and the Jamaica Constabulary Force (JCF) have signed a Memorandum of Understanding which sets out a framework which will ensure that the delays occasioned by the OPD in the past in dealing with investigations of constitutional breaches by members of the JCF are reduced. This MOU was finalised in August 2014. As part of the agreement, the OPD will deliver training to relevant officers of the JCF in key areas of constitutional and public law. The training will commence in mid-November. The benefits of the MOU are already being realised as there has been closer collaboration between both entities; liaison officers have been appointed and the OPD has been receiving responses in a more timely manner from the JCF. This redounds to the benefit of the citizens as alleged breaches are being investigated in a timely manner.

148. The OCA carries out investigations in instances in which the infringement of children's rights is perpetrated by a government entity/entities.

(c) Training of law enforcement personnel and ensuring that persons arrested or detained are informed of their rights

149. In accordance with the laws of Jamaica (i.e. the Constitution) and international human rights conventions, any person who has been arrested by the police should be treated with dignity and provided basic rights to protect them from any potential abuse. When a person is being detained, the police is mandated to inform the person arrested of the basis for his arrest, as every citizen is entitled to know on what charge or suspicion of crime he is being detained. Essentially, the JCF police officers abide by the "Judges' Rules", a set of guidelines for interviews by the police. New recruits as well as seasoned Police officers are trained systematically in matters relating to the treatment of detained persons.

(d) Information on complaints of violations, number of individuals prosecuted and convicted, and reparations awarded to victims

150. All reported allegations of misconduct and human rights abuses are consistently investigated by the relevant authorities. The relevant authorities do not normally file complaints under the nomenclature of "torture and cruel, inhuman and degrading treatment". As such, it was difficult to retrieve this information.

151. During 2014, the Office of the Public Defender (OPD) received complaints from seven (7) individuals who are high-risk prisoners housed at the Horizon Adult Correctional Centre, that they were being tortured physically and psychologically by Jamaica Defence Force (JDF) soldiers. Investigations conducted by the OPD revealed that inhumane treatment was meted out to the inmates. The JDF soldiers have since been removed from the section which is now being manned by Correctional Officers. Two (2) of the seven (7) inmates have acquired the services of private attorneys and are seeking redress through the Courts.

152. In relation to cruel and inhuman treatment, two (2) persons have complained of being subject to inhuman treatment at lock-ups. Both matters are currently under investigation. The OPD has also received two (2) cases of discrimination which would fall within the category of inhuman and degrading treatment. One (1) individual, a former female member of the Jamaica Constabulary Force (JCF) cites unfair dismissal. Efforts are underway to mount a constitutional challenge. In the other case, a visually impaired man reports that he was not considered for a teaching post due to his disability. The case of the visually impaired man is currently before the Supreme Court on a constitutional challenge.

Recommendation No. 22

153. The National Taskforce Against Trafficking in Persons (Taskforce), appointed by the Cabinet of Jamaica, continues to operate as an Inter-Ministerial group whose core emphasis is the prevention and suppression of trafficking in persons, investigation and prosecution of all individuals suspected of committing the offence, as well as the protection and provision of assistance to victims of trafficking, by enhancing national capacity and developing Jamaica's legislative and institutional framework for the elimination of trafficking. Chaired by the Permanent Secretary in the Ministry of Justice, the Taskforce is comprised of a wide range of Ministries, Departments and Agencies (MDAs), which include the Ministries of Education, Foreign Affairs and Foreign Trade, Justice, Labour and Social Security, National Security, Tourism, the Bureau of Women's Affairs (BWA), Passport Immigration and Citizenship Agency (PICA) and the Jamaica Constabulary Force(JCF) which is represented by the Trafficking in Persons (TIP) Unit of the Organised

Crime Investigation Division (OCID) and Centre for the Investigation of Sexual Offences and Child Abuse (CISOCA). There are also entities from the non-government sector on the Taskforce. The Taskforce holds quarterly meetings with civil society groups and Non-Governmental Organisations (NGOs) that are not a part of the Taskforce.

154. Since 2012, the Taskforce has intensified the number of initiatives it has implemented. Jamaica approved the National Plan of Action to Combat Trafficking in Persons which adopted the guiding principles of the Global Plan of Action of the United Nations. The Taskforce Secretariat supports and monitors the implementation of the Action Plan. A victim shelter was also established and guidelines for the Operation of Care Shelters for the Victims of Human Trafficking were adopted in 2008. In addition, there is a pool of approved places of accommodation for TIP victims in Jamaica. In 2012, Jamaica provided care and shelter for a group of twenty-one (21) Honduran boys on board a Honduran fishing vessel intercepted by the Jamaica Defence Force in Jamaican Coastal waters. The Government of Jamaica provided shelter and meals along with counselling, medical relief and support through the Victim Support Unit (VSU), the Child Development Agency and the Ministry of Health (MOH).

155. During 2012/13, two hundred and fifty five (255) raids were conducted, six (6) cases detected and thirty-nine (39) victims rescued; three (3) TIP cases were suspected; seven (7) TIP investigations were launched and four (4) arrests were made. The Government of Jamaica also increased collaboration with the hotel and tourism industry and increased raids on high-profile hotels and nightclubs with reported reputations for providing commercial sex acts. The TIP Unit of the Constabulary Force has reported that there were twenty seven (27) new investigations of TIP cases, of which twenty six (26) related to sex trafficking and one to forced labour.

156. The legislative framework was strengthened through amendments (enacted in July 2013) to the Trafficking in Persons (Prevention, Suppression and Punishment) Act to allow for: increased penalty from ten (10) to twenty (20) years to ensure that punishment for such an offence was commensurate with punishment for offences such as forcible sexual assault. Legislative amendments also included an expanded definition of "exploitation" to include offences such as carnal abuse and rape; as well as to include circumstances where a person is kept in debt bondage. Legislative provisions were also included to allow for restitution to be ordered by the court in proceedings where a person is convicted of trafficking in persons. Consideration is also being given to establishing regulations to allow for the development of protocol/guidelines for the referral of TIP victims to protection and rehabilitation services as well as the safe and voluntary repatriation of TIP victims.

157. In September 2013, the US Army's Military Information Support Team (MIST) gave a significant boost to the Taskforce's public education efforts with the handing over of public education materials to be used in its fight against Human Trafficking. These materials included six hundred (600) posters, five thousand (5,000) handbills, as well as thirteen (13) advertisements placed on Jamaica Urban Transit Company (JUTC) buses which will run across the Northern, Southern, Eastern and Western zones of the parishes of Kingston, St. Andrew and St. Catherine. MIST also facilitated the placement of seven (7) billboards across the island.

158. There has been increased sensitisation and training to maximise victim identification, assistance, treatment and protection of victims in order to create greater awareness and understanding of TIP-related matters. In 2013, fifty (50) persons from agencies such as PICA, CISOCA, JCF, Office of the Children's Advocate, Ministries of National Security, Justice and Labour and Social Security participated in the USA Department of Homeland Security training on TIP/Child Exploitation/Forced Child Labour which focused on sharing best practices related to investigation, prosecution, and victim identification and assistance. During January and February 2014, eighty-eight (88) persons

were trained on the issue of human trafficking inclusive of judges, prosecutors, victim support personnel and police officers. Additional training and sensitisations are planned for2014/2015.

159. On September 23, 2013 Jamaica observed the International Day Against Human Trafficking and Sexual Exploitation of Women and Children which was marked by a Public Statement by the Minister of Justice in the daily newspapers, radio interviews and dissemination of over four thousand (4,000) handbills. Over sixteen thousand (16,000) Trafficking in Persons wallet cards have been distributed to a variety of government entities. Three hundred (300) wallet cards were also distributed to youths between the ages of 18–30 from 190 countries at the One Young World Youth Summit on October 2, 2013 that looked at the global issue of Gender violence and human trafficking among other issues.

160. During October and December 2013, the Taskforce conducted school tours, facilitated by UNICEF, which imparted information on identifying and preventing trafficking in persons and assistance available to victims. In November 2013 and January 2014, the Taskforce hosted public forums and an outside broadcast on a national radio station discussing the matter of trafficking in persons. The placement of advertisements and conduct of news releases, media interviews and news forums are continuous strategies used by the Taskforce in its public education campaign. Plans are also being executed for conducting an anti-trafficking march/rally.

Recommendation No. 23

161. On August 18, 2014, Cabinet appointed a Sub-committee led by the Ministers of National Security and Justice to review the detention system and to develop a strategic response to the issue of the treatment of persons in lock-ups and correctional facilities, including the necessary infrastructural modifications. Consequently, a meeting of the Sub-committee, which involves several Ministries, Departments and Agencies as well as non-governmental organisations, was convened on August 28, 2014, to address same. Three working groups of the Sub-committee were established to examine and make recommendations to address the following issues:

(i) The reduction of the overcrowding in the facilities (lock-ups and prisons), through process improvements and law reform;

(ii) To review the current Lock-up Administration Policy, to address issues relating to training, professionalism and accountability of officers who interface with persons in custody, and to address issues relating to persons in custody who have special requirements e.g. children, persons suffering from mental health issues, etc.;

(iii) To examine the infrastructure and logistics of the detention facilities.

162. Each working group has been charged to oversee the consultative process regarding the issue assigned, and to provide a draft interim report to Cabinet outlining the findings and recommendations later this year (2015).

163. While the Government is firmly committed to improve existing conditions to satisfy international human rights standards in the operation of lock-ups and correctional facilities, there are significant challenges to achieving these, primarily:

(a) The outdated physical infrastructure of the lock-ups and prisons;

(b) The human and financial resources available to supervise and operate lock-ups and prisons are woefully inadequate;

(c) The legal and administrative procedures governing the arrest/bail/oversight of persons in custody are cumbersome.

164. Notwithstanding these challenges, some improvements have been effected in the past two years:

(a) The number of juveniles in correctional or remand facilities has been reduced by 42 per cent from 446 in 2012 to 259 presently. In addition, the female juveniles have been consolidated from three facilities (two of which were also adult facilities) to one;

(b) The number of persons in police custody has decreased by 25 per cent in the last year, resulting in a system-wide reduction in overcapacity from 100 per cent down to 50 per cent;

(c) Police fatal shooting is down by 45 per cent year to date, and all JCF recruits now receive human rights training.

165. Additionally, the number of adults in correctional or remand facilities has been reduced and a reclassification exercise is underway to transfer inmates from maximum to medium security facilities. Plans are being made to construct a two-storey block at Tamarind Farm Adult Correctional Centre to house 304 low and medium risk inmates.

166. In the current arrangement, most accused (charged) persons are held in police custody. The remainder of accused (charged) persons are in the care of the DCS either at Horizon Remand Centre (adults), Metcalfe Street Secure Juvenile Centre (boys) and South Camp Correctional and Remand Centre (girls).

167. In police lock-ups, children are held in separate cells from adults. There are plans to construct stand-alone child-friendly holding cells in each Police Division. One such site has already been constructed in Bridgeport, St. Catherine. Three (3) additional sites have been identified for development under the Jamaica Emergency Employment Programme (JEEP). These include: (i) Moneague, St. Ann; (ii) Nain, St. Elizabeth and (iii) Barrett Town, St. James. An additional four (4) sites will be identified, once the aforementioned are complete. In addition, a new five thousand (5,000) bed Correctional Facility will be constructed to house inmates (male and female) from the Fort Augusta, Tower Street and St. Catherine facilities.

168. In 2013/14, Children's Officers (Social Workers) assigned to the Child Development Agency made 1,001 telephone contacts and made physical visits to police stations island-wide to identify children in lock-ups and take actions as necessary. Some actions involve the removal of children from lock-ups, making contact with family members and facilitating the separation of children from adults. The team of Social Workers is also required to visit the sites where children are being held and to ascertain if their human rights are being upheld, and if not, to take action as necessary to restore such rights.

169. The Child Development Agency also carries out a weekly review of the Detention and Courts Report which is received from the Jamaica Constabulary Force and carries out interventions to address issues such as removal of children identified as having behaviour management problems, children in remand in need of care and protection, etc.

170. The removal of children from adult correctional centres is complete. Children have been relocated from two adult correctional centres where they were being held separately.

171. As at June 30, 2014, 921 children were released to the care of parents/guardians by the Courts on a Supervision Order. These children who are at their respective homes on a Supervision Order, which has a life span of between one to three years are assigned to and supervised by a Children's Officer (Social Worker) under the employ of the Child Development Agency.

172. The use of non-custodial sentences is one component of Jamaica's detention system. Approximately 50 per cent of the total number of cases involving children is resolved with the use of non-custodial sentences, resulting in a decline in the detention of children in correctional facilities.

Recommendation No. 24

173. The Justice Reform Implementation Unit was established in 2012 under the Justice Undertakings for Social Transformation (JUST) Programme of the Ministry of Justice. This Unit is designated to consolidate, coordinate, monitor and support the timely delivery of all justice sector reform initiatives and drive the implementation of the Justice Reform Agenda over the long term. Several projects and programmes have been developed to ensure speedy and fair trials and improve the delivery of justice by the courts. Criminal Case management is one such project which has been implemented in 4 courts as a pilot, with a view to encouraging fair and speedy case resolution. The services of additional judges have been retained. These judges will be deployed on a rotation basis to a newly established regional Supreme Court. In addition, legislation allowing additional judicial appointments has been enacted. These measures aim to reduce case back log in the courts and increase the rate at which cases are disposed of.

174. The Court Management Services was established in August 2009 to strengthen judicial independence and enable the Judiciary and the Courts to have greater input in budgetary decisions and execution of activities surrounding the operations of the Courts. It serves as a means of facilitating a more efficient operation of the Court System, thereby improving the justice system, through the restructuring of the administrative framework and the strengthening of judicial independence. A Strategic Governance Framework for the Court Management Services, prepared with the assistance of experts provided by the Canadian Government under the JUST Programme, was approved by Cabinet on February 3, 2014 and involves (among other things): (i) the establishment of an Advisory Board for the Court Management Services, chaired by the Chief Justice and with a majority of members appointed from the Judiciary, and with representation from the Bar and the Private Sector, (ii) the establishment of a new post of Executive Legal Officer in the Office of the Chief Justice to provide legal/administrative support to the Chief Justice, and (iii) the establishment of a new post of Chief Magistrate, to be the administrative head of the magistracy, reporting to the Chief Justice, and a new post of Executive Legal Officer to support to Chief Magistrate.

175. The Ministry of Justice has the responsibility for the overall implementation and administration of the National Restorative Justice Programme. The goals of this programme are to reduce criminal case backlog by diverting cases from the formal justice system and resolving conflicts at the community level. It encourages increased public confidence and trust in the justice system by fostering greater participation in and ownership of restorative justice processes by communities and victims. The Restorative Justice Programme has trained approximately one hundred and sixty (160) Restorative Justice Facilitators. Currently, there are (nine) 9 restorative justice centres across the island. During April, 2013 and August 2014, the programme received forty eight (48) cases island wide, with emphasis on volatile communities.

176. In keeping with the Jamaica Justice Reform recommendations, several pieces of legislation have been proposed and/or passed by Parliament which aims to ensure speedy and fair trials. The Evidence (Special Measures) Act passed by the Parliament of Jamaica in 2012 allows for the use of video recorded interviews and live audio-visual link evidence by vulnerable witnesses. The aim is to encourage the availability and increase the quality of certain evidence and facilitate the expeditious disposal of cases. The Committal

Proceedings Act was passed in 2013 and it seeks to abolish preliminary examinations and to introduce the process of committal proceedings whereby, to reduce delay and expense, a person's written statement, if it satisfies certain conditions, will be admitted in committal proceedings as evidence to the same extent and effect as if such person had given oral evidence before the Resident Magistrate in the committal proceedings. Other proposed legislation treat with the expansion of the jury pool, the elimination of certain jurisdictional silos, introduction of trial delay standards for the disposal of summary cases, the requirement to give notice of intention to rely on the defence of alibi and the imposition of discounted sentences where an accused pleads guilty.

177. A review of the fee tariff rates for legal aid assignments has been conducted, and new rates were recommended by the Board of the Legal Aid Council. The Ministry of Finance has approved these new fee tariff rates, and they will be implemented once the required budgetary provision is made available. The proposed rates reflect significant increases in the current rates, which it is believed are competitive and will serve as a fillip to the commitment of attorneys. The implementation of a mobile legal aid clinic is also being explored and consultations have taken place regarding this initiative.

178. Currently, there are three Legal Aid Clinics providing service to the people of Jamaica: The Kingston Legal Aid Clinic, The Montego Bay Legal Aid Clinic, and the Norman Manley Law School Legal Aid Clinic. The Legal Aid Council currently has four hundred and sixty-eight (468) attorneys empanelled to provide legal representation to detainees/accused. The Policy of the Council is that no citizen is to be denied legal representation in a criminal matter due to impecuniosities. The Central Government provides a budgetary allocation to pay attorneys for completed matters. There are law firms and non-governmental organisations (NGOs) that provide pro bono services.

Recommendation No. 25

179. A review of the Children's Homes and Places of Safety was conducted in 2003. Based on the findings, 46 recommendations were made to improve the condition of children in state care. Action has been taken on approximately ninety-three (93) per cent of the forty-six (46) recommendations; twenty-nine (29) have been fully implemented, fourteen (14) are at varying degrees of implementation and three (3) have not yet been implemented but have been earmarked for future implementation. The recommendations can be categorised into three (3) groups. These groups represent recommendations that: (a) advocate reformation of the legal framework governing the child care and protection system; (b) propose establishment of standards/improvement in operational procedures; and (c) propose change in strategic approach to the management of children in the child care and protection system.

180. The recommendations that have been fully implemented cover a number of achievements, which include:

- The ratification of the Child Care and Protection Act and Children's Homes Regulations;
- Revision and strengthening of the operational capacity of the Child Development Agency (CDA) to ensure that it offers premium quality service to children;
- Development of standards aligned to international conventions and best practices.

181. The Ministry of Youth and Culture which is the Portfolio Ministry with responsibility for Children's Affairs, is playing a stronger role in the management and operations of the respective agencies, CDA and OCR, which has resulted in the fast tracking of policy decisions.

182. It is important to note that most of the recommendations that focus on deficiencies within the legal framework of the child care system have been addressed through the repeal and replacement of the Juvenile Act (1951) with the Child Care and Protection Act (2004). A current review and revision of the Child Care and Protection Act as well as the Children (Adoption Of) Act is underway.

183. The recommendations that fall under the category, Establishment of Standards/ Improvement in Operational Procedures concern operations within the Child Development Agency (CDA) and the Children's Homes. There have been major improvements in this area. For instance, operational procedures of the Children's Homes (in particular those managed by the CDA) are now standardised through the Children's Homes Regulations, which came into effect in 2007. Also, the CDA has made extensive modification to its internal processes by incorporating most of these recommendations into its operational functions.

184. Most of the recommendations that propose a change in strategic approach to the management of children in the child protection system remain a work in progress. Keen focus is now being placed on expediting the implementation of the following strategies:

(a) Separation of children in State care based on needs. One major challenge that has been identified is the integration of children in the different categories below:

(i) Children in need of care and protection;

(ii) Children with extreme behavioural problems;

(iii) Children who have committed criminal offences.

Strides are being made toward the resolution of this problem. The Cabinet recently gave its approval to remove children with behavioural problems from the Juvenile Criminal Justice System. This will be replaced with therapeutic treatment methods to assist in their rehabilitation and reintegration.

(b) Strengthening the Foster Parent Programme by recruiting more parents to foster children in the system.

(c) Creating transitional living spaces (homes) to prepare children for re-integration into society. This initiative has been introduced to Muirton Boys' Home and at least three initiatives (one of which is with international assistance) are underway.

(d) Developing a Child Case Management Information System. Cabinet recently gave approval for the Child Development Agency to acquire and install an integrated case management system to support the work being done in the child protection sector.

185. As indicated previously, three of the recommendations from the review have not been implemented and there is no certainty as to when they will be implemented. Those recommendations have significant cost implications, and as such, they are being deferred for future action. The recommendations are detailed below:

(i) Tax or other incentives could be offered to corporate Jamaica for its cooperation. Focus should be directed at the rural poor and to inner city communities from which most of the wards of the institutions come;

(ii) Provide through its clinics, "special needs extension workers" to support families and do a level of monitoring of disabled children at home. The Health clinics should provide scheduled community based-services for evaluation, development programme review in addition to health care needs.

(ii) The Ministry of Health, with the Ministries of Education and Youth & Culture, should explore the provision of "respite care" and special day-care facilities where

parents can leave their child with a disability for brief periods to allow them the opportunity to work and nurture any other child who may be in the household.

186. In relation to the victims of the fire at the Armadale Juvenile Correctional Centre, compensation of the victims' families is an ongoing process, with a total of forty–two (42) claims being made. The Government has accepted liability in some cases. The Attorney General's Chambers is in contact with the Attorneys of some victims.